

AT A REGULAR MEETING OF THE CULPEPER COUNTY BOARD OF SUPERVISORS HELD IN THE BOARD ROOM, LOCATED AT 302 N. MAIN STREET, ON TUESDAY, FEBRUARY 6, 2007.

Board Members Present: *John F. Coates, Chairman*
Steven E. Nixon, Vice-Chairman
Larry W. Aylor
William C. Chase, Jr.
Sue D. Hansohn
Brad C. Rosenberger
Steven L. Walker

Staff Present:
Frank T. Bossio, County Administrator
J. David Maddox, County Attorney
John C. Egertson, Planning Director
Sam McLearen, Zoning Administrator
Peggy S. Crane, Deputy Clerk

Planning Commission Members Present:
G. Russell Aylor, Chairman
Robert J. Kenefick, Vice Chairman
Mary Foley
David V. Lowery
F. DeWayne Payne
Lucille K. Price
Sanford Reaves
Roger C. White

Planning Commission Members Absent:
Ian Phillips

Staff Present:
John C. Egertson, Planning Director
Sam McLearen, Zoning Administrator
Pamela Schiermeyer, G.I.S. Coordinator
Laura Loveday, Comprehensive Planner
John Cooley, Planner/Technician
Grace Lowe, Planning Assistant

CALL TO ORDER

Mr. Coates, Chairman, called the meeting to order at 7:00 p.m. and noted for the record that a forum was present for the evening portion of the meeting. He explained that the first item on the agenda was a joint public hearing with the Planning Commission:

JOINT PUBLIC HEARING WITH PLANNING COMMISSION

THE BOARD WILL RECEIVE PUBLIC COMMENTS AND CONSIDER READOPTION OF AMENDMENT TO ARTICLE 7.1 OF THE ZONING ORDINANCE (APPENDIX A OF THE

CULPEPER COUNTY CODE) AND AMENDMENTS TO APPENDIX C, REPEALED DISTRICTS, ARTICLE 7 AND 8.

The Board will hold a joint public hearing with the Planning Commission to consider proposed text amendments to Appendix A and Appendix C of the County Code which would alter the “grandfathering” provision for and permitted uses allowed in the M-1 (Light Industrial) and M-2 (Heavy Industrial) Zoning Districts, to prohibit residential uses in such districts.

Mr. Coates turned the meeting over to Dr. Russell Aylor, Planning Commission Chairman, to call the Planning Commission meeting to order.

Dr. Aylor called the special meeting to order and stated for the record that a quorum was present. He asked Mr. John C. Egertson, Planning Director, to provide an explanation of the proposed amendment.

Mr. Egertson explained that the Board of Supervisors would hold a joint public hearing with the Planning Commission to consider proposed text amendments to Appendix A and Appendix C of the County Code which would alter the “grandfathering” provisions for, and the permitted uses allowed in, the M-1 (Light Industrial) and M-2 (Heavy Industrial) Zoning Districts to prohibit residential uses in such districts.

Mr. Egertson recalled that in November 1991, the County adopted the Industrial Zoning Districts LI (Light Industrial), Article 7A.1, and HI (Heavy Industrial), Article 8A.1, to replace the M-1 and M-2 zoning districts, and although the M-1 and M-2 zones were repealed, they were retained in Appendix C of the County Code as “grandfathered” districts for those properties zoned M-1 or M-2 at that time. The primary difference between the LI and HI zones and the M-1 and M-2 zones was that the LI and HI were limited to industrial use only and did not pyramid and, as such, commercial and residential uses were not allowed. Conversely, the M-1 and M-2 districts allow both commercial and residential uses. Under the amendments proposed, all residential uses would be prohibited in the M-1 and M-2 zoning districts. The commercial uses would not be impacted. This amendment would affect all parcels in the M-1 and M-2 zoning districts throughout the County.

Mr. Egertson stated that if adopted, the proposed amendments would impact 95 parcels currently zoned M-1 (Light Industrial) totaling approximately 1,000 acres, and 167 parcels currently zoned M-2 (Heavy Industrial) totaling approximately 1,350 acres. He noted that the acreages were approximate because many parcels were “split zoned” and no acreage breakdown was available.

Mr. Egertson stated that with regard to the Comprehensive Plan and the justification for the changes, the vast majority of the affected parcels were designated for industrial or commercial uses on the future land use map of the 2005 Culpeper County Comprehensive Plan. Industrial and residential uses are generally not compatible in close proximity and to continue to allow both uses in single zoning districts was in direct conflict with the Comprehensive Plan and good planning practices. From an economic development standpoint, industries preferred not to locate adjacent to residential areas.

Mr. Egertson stated that there were 46 properties zoned either M-1 or M-2 which currently have single-family residential uses. In the M-1 district, there were 11 homes that, under these changes, would become legal, nonconforming uses governed by Article 12 of the Zoning Ordinance. He explained that under Article 12, a nonconforming dwelling could be replaced in-kind, even if destroyed 100 percent, but could not be enlarged or expanded. In the M-2 district, there were 35 existing single-family dwellings that were already nonconforming uses and would not be impacted by the changes currently proposed, with the exception they could not be converted to multifamily structures.

Mr. Egertson pointed out that during the rapid housing growth the County had experienced over the last several years, the amount of residential growth in the M-1 and M-2 zones had been minimal. He said that fact indicated that the M-1 and M-2 zoned areas of the County were not the most desirable for residential growth, and this would be the appropriate time to make this change in order to preserve the land best suited for industrial and commercial use and to reconcile the overly broad permitted uses in the M-1 and M-2 zones in complying with the Comprehensive Plan.

Mr. Egertson displayed an overall map of the M-2 district that indicated the Route 15-29 business corridor, the Industrial Airpark in Elkwood, and some areas by the quarry in the Rapidan and Mitchell area. He stated all of the areas were most appropriate for industrial development.

Mr. Egertson concluded by emphasizing that the changes were a comprehensive amendment that would be applicable to every parcel of M-1 and M-2 zoning in the County, and it was ready for consideration by the Planning Commission and the Board of Supervisors.

Mr. Coates opened the public hearing for the Board of Supervisors and asked the Planning Commission Chair to do likewise.

Dr. Aylor declared the public hearing open for the Planning Commission.

Bill Canavan, Cedar Mountain District, spoke in opposition to the proposed text amendments. He reviewed the reasons for the proposed amendment changes and felt that one of the reasons was to preserve industrial land for future large companies that may want to locate in this area. He said that he had hundreds of acres of industrial zoned land, and that a large company, Terremark, was now proposing to come to Culpeper at a site where a rezoning process must take place. He asked what the real reasons for this change were and what the real benefits of these changes were.

Linda Walker, Stevensburg District, and representative for the Brandy Road neighborhood, asked what more had to be said that has not already been said. She once again requested that the residential properties that were already populated be allowed to remain residential.

Tom Underwood, Salem District, felt that the proposed text amendment made no sense to him. He said that M-2 heavy industrial was surrounded by residential zoning. He also asked what the need was at this time to deny a grandfathered use.

Lawrence Bennett, Cedar Mountain, said that he owned property on Route 29 that had a house on it. He said that when a new road was built, VDOT would take that house and asked what would happen if he could not put the house back on the property.

Roger Mitchell, Jefferson District, spoke about a case that would be heard by the Board of Supervisors later in the evening. He asked if the same courtesy would be extended to the Canavan property and every other owner of M-1 zoned property.

With no further comments, Dr. Aylor closed the public hearing.

Minutes of the Joint Public Hearing were prepared by the Planning Commission's Planning Assistant. See Attachment #1.

A complete transcript of the public hearing is available in the County Administration office for review.

After the public hearing was closed, the Planning Commission, following a brief discussion, voted unanimously to approve the re-adoption of the proposed amendments to Article 7.1 of the Zoning Ordinance, Articles 7 and 8, Appendix C of the County Code, as recommended by staff.

Dr. Aylor turned the meeting back to the Board of Supervisors.

Mr. Coates read the Planning Commission's recommendation into the record:

Dear Mr. Coates:

Re: Re-adoption of Amendment to Article 7.1 of the Zoning Ordinance
Appendix A of the Culpeper County Code and Amendments to Appendix
C, Repealed Districts, Articles 7 and 8.

The Board of Supervisors will consider proposed text amendments to Appendix A and Appendix C of the County Code which would alter the “grandfathering” provisions for, and permitted uses allowable in the M-1 (Light Industrial) and M-2 (Heavy Industrial) Zoning Districts. The text amendments being considered would exclude all residential uses which were previously permitted uses in the M-1 and M-2 zoning districts. No changes to allowable industrial and commercial uses are proposed.

This amendment to Article 7.1 of the Zoning Ordinance and Amendments to Appendix C, Repealed Districts, Articles 7 and 8 was considered by the Planning Commission after the proper advertising and public hearing held Tuesday, February 6, 2007.

The Planning Commission found these Amendments to be appropriate. They are supportive of the Comprehensive Plan, and apply throughout the County.

Upon motion duly carried, the Planning Commission recommends to the Board of Supervisors that Amendment to Article 7.1 of the Zoning Ordinance (Appendix A of the Culpeper County Code) and Amendments to Appendix C, Repealed Districts, Articles 7 and 8 be adopted.

Sincerely,

/s/ G. Russell Aylor
Dr. G. Russell Aylor, Chairman
Culpeper County Planning Commission

Mr. Coates asked for a motion regarding the proposed Amendments.

Mrs. Hansohn stated that before she made a motion, she would like to point out that any citizens that had M-1 and M-2 zoning in place had the right to come before the Planning Commission and the Board of Supervisors to request a change in the zoning.

Mrs. Hansohn moved, seconded by Mr. Rosenberger, to approve the re-adoption of amendments to Article 7.1 of the Zoning Ordinance and to Articles 7 and 8 of Appendix C of the County Code as recommended by staff and the Planning Commission.

Mr. Chase stated that he could not support the motion because he had always equated “grandfathering” with vested rights and, therefore, he questioned the validity of the amendment. He also did not agree that mixed-use communities did not work because he was raised in a mixed-use community and businesses, industries, and residents worked together.

Mr. Nixon stated he shared Mr. Chase’s views and he would not support the motion because he felt that the Board should not renege on its “grandfathering” promise to

landowners. He said there were some areas zoned industrial and residential that did not belong together, but the market would determine whether they were appropriate and a zoning amendment was not necessary.

Mr. Walker and Mr. Egertson discussed comments made by one of the speakers during the public hearing regarding single-family homes in M-2 zones being nonconforming, legal conforming uses under the County Code. Mr. Egertson pointed out that if dwellings within this zone were destroyed by fire, flood, etc., that they could be replaced 100 percent.

Mr. Coates called for vote by show of hands.

Ayes - Aylor, Coates, Hansohn, Rosenberger, Walker

Nays - Chase, Nixon

Motion carried 5 to 2.

Mr. Coates recessed the meeting at 7:40 p.m. to allow the Planning Commission members and others to leave if they wished to do so.

Mr. Coates called the meeting back to order at 7:55 p.m.

CITIZEN FORUM

Mr. Coates opened the Citizen Forum and called for comments on any item that was not on the agenda.

Mr. D. R. Griffith, Stevensburg District, expressed his continued concern regarding the County's approval of the Bowen tract. He said that according to the Commonwealth of Virginia, the Planning Office had informed them that the Bowen tract was only in the concept stage and his concerns were unfounded. He stated that in reviewing the VDOT files, he believed that proper procedures were not followed in evaluating sight distance along the existing roadway since no traffic study had been initiated. He distributed a request to the Board for additional information.

Mr. Scott Jenkins, Salem District, stated he was speaking to the Board as a citizen, a father and a law enforcement officer. He said as a citizen and a father, he realized that taxes would need to be increased to pay for new schools and a water and sewer facility; but as a law enforcement officer, he knew there was a desperate need for a County jail. He commended the Board for being good stewards of the taxpayers' money in using caution in proceeding with what was reasonable within the County's budget. He stated that the current jail costs \$3 million per year to operate with 33 jail staff to house over 100 inmates, while the proposed jail would cost over \$40 million and require 50 more deputies to house

204 inmates. He said that Fauquier County had joined a regional jail to accommodate 200 inmates while continuing to maintain its old jail with 75 beds to house work release and pretrial inmates, which was saving them millions of dollars. He pointed out that the Central Virginia Regional Jail in Orange had operated for over 17 years at no cost to any of the five participating counties. He said that Culpeper County would soon be the only county in the region not belonging to a regional jail and urged the Board to give serious consideration to negotiating with current or future regional jails in order to conserve County funds.

AGENDA OF AGENDA - ADDITIONS AND/OR DELETIONS

Mr. Nixon moved, seconded by Mr. Aylor, to approve the agenda as presented.

Mr. Coates called for vote by show of hands.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker

Motion carried 7 to 0.

PUBLIC HEARINGS

THE BOARD WILL RECEIVE PUBLIC COMMENTS AND CONSIDER AMENDMENTS TO THE COUNTY CODE, CHAPTER 12 – TAXATION, ARTICLE 1, SECTION 12-2(a) TO ADOPT AN ALTERNATIVE METHOD OF FILING TANGIBLE PERSONAL PROPERTY TAX RETURNS FOR MOTOR VEHICLES, TRAILERS AND BOATS

Mr. Mark Taylor, Assistant County Attorney, stated that the proposed amendment to Article 12 of the County Code would provide for the filing of personal property tax returns on motor vehicles, trailers, and boats by an alternative method known as “filing by exception”. He explained that under the proposed change, no response would be required by a taxpayer if the form listed the correct name, ownership of property, and the situs of the property in the County. A response would be required only if there were changes in a taxpayers’ account.

Mrs. Terry Yowell, Commissioner of the Revenue, stated the proposed amendment would reduce the manual data entry currently being done in her office and would provide additional time to close the property assessment books earlier in the year. She expressed her appreciation for the Board’s consideration of the proposed change.

Mr. Chase asked for additional information on how the new process would work. Mrs. Yowell explained that the reporting forms currently being sent to taxpayers listed their personal property and required that the form be signed, dated and returned with any corrections by May 1. She said under the proposed amendment, when a taxpayer received

the report form and there were no changes, the form would not have to be returned to her office.

Mr. Coates opened the public hearing and called for public comments.

There were none, and Mr. Coates closed the public hearing.

Mr. Chase moved, seconded by Mrs. Hansohn, to approve the amendment to Chapter 12 of the County Code.

Mr. Coates called for vote by show of hands.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker

Motion carried 7 to 0.

THE BOARD WILL RECEIVE PUBLIC COMMENTS AND CONSIDER AMENDMENTS TO THE COUNTY CODE, CHAPTER 10 – MOTOR VEHICLES AND TRAFFIC, ARTICLE II – VEHICLE LICENSE, TO MAKE COUNTY MOTOR VEHICLE DECALS PERMANENT, AND MOTOR VEHICLE LICENSE TAXES DUE ANNUALLY ON DECEMBER 5TH

Mr. Taylor stated that the proposed amendments to Chapter 10 of the County Code pertained to the motor vehicle license tax, the license tax year, and the institution of permanent decals for Culpeper County. He said the annual ritual of removing decals from vehicles would be eliminated because a permanent decal would be purchased in the spring and future payments would be billed for the license tax on the personal property bill. This change would synchronize the motor vehicle license tax year with the calendar year and make the decal permanent.

Mr. David Dejarnette, County Treasurer, asked the Board to approve the amendment to the ordinance. He stated that he had reviewed the two collection periods and found that the 60-day collection season for the sale of decals in FY 2006 was \$737,000, and the 90-day tax collection season at the end of the year was approximately \$35 million. He noted that moving the license tax year and synchronizing it with the personal property billing would allow them to be paid at the same time. He said during the transition period, the 2007 decals would be effective April 16 through December 31 and the cost would be \$17.50 for automobiles, instead of \$25; and \$10.50 for motorcycles instead of \$15.

Mr. Chase asked how tracking would be done on automobiles not being used or moved to another locality. Mr. DeJarnette replied that if a vehicle were licensed in the State of Virginia and was garaged in Culpeper County, the entire license tax fee would be applied,

but if the vehicle were unlicensed, the fee would be \$10 per year. He said that DMV provided access to their records for tracking purposes.

Mrs. Hansohn asked whether there was a program in place for individuals to prepay their taxes quarterly or monthly if they wished to do so. She noted there were citizens who did not want to pay their taxes in December. Mr. DeJarnette replied that many people were unaware they could prepay their taxes. He said that anyone who wished to prepay could contact his office and his staff could estimate current or future yearly taxes based on the past three tax years, and that amount could be divided into monthly or quarterly payments and would be accepted any time during the year.

Mr. Nixon pointed out that the proposed amendment would not affect any Town residents. Mr. DeJarnette stated that was correct.

Mr. Nixon stated that in the past, an individual could not obtain a decal unless his/her personal property taxes were paid for prior years. He asked how those individuals would be accounted for without the current checks and balances. Mr. DeJarnette replied that the license tax would be added to the delinquent personal property tax and various collection tools were available such as DMV stops that prevented the registration of a vehicle if there were delinquent personal property taxes, set-off debt could be applied by the Commonwealth of Virginia in order for the County to receive funds from tax refunds, and other collection methods such as bank liens and garnishments. He added that the 60 days normally spent selling decals would be better spent chasing down delinquent taxpayers.

Mr. Coates opened the public hearing and called for public comments.

Mr. Robert Simpson, Salem District, stated he also had a vehicle that he did not use and for which he did not purchase a decal, but he reported it every year to the Commissioner of the Revenue in order to pay the required personal property tax and that he preferred the present system.

With no further comments, Mr. Coates closed the public hearing.

Mr. Nixon moved, seconded by Mrs. Hansohn, to approve the amendment to Chapter 10 of the County Code.

Mr. Coates called for vote by show of hands.

Ayes - Aylor, Coates, Hansohn, Nixon, Rosenberger, Walker

Nay - Chase

Motion carried 6 to 1.

THE BOARD WILL RECEIVE PUBLIC COMMENT AND CONSIDER SALE OF PROPERTY IN THE COUNTY'S INDUSTRIAL AIRPARK LOCATED ON VIRGINIA ROUTE 1016, GREENHOUSE ROAD LOCATED IN THE STEVENSBURG DISTRICT

Mr. Carl Sachs, Economic Development Director, explained that the property for sale was located in the Culpeper Industrial Park, contained .8341 acres, and was an unimproved road right-of-way that had been abandoned. He said after advertising, an offer was received from Mr. David E. Payne, who owned property on both sides of the road to be sold. Mr. Payne offered to pay \$10,000 for the property, and Mr. Sachs felt that was a reasonable offer.

Mr. Coates opened the public hearing and called for public comments.

There were none, and Mr. Coates closed the public hearing.

Mr. Chase moved, seconded by Mr. Aylor, to approve the sale of property in the Industrial Airpark to Mr. David E. Payne for \$10,000.

Mr. Coates called for vote by show of hands.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker

Motion carried 7 to 0.

THE BOARD WILL RECEIVE PUBLIC COMMENTS AND CONSIDER ABANDONING A SECTION OF SECONDARY ROUTE 736 AT THE RAPIDAN RIVER

Mr. John E. Egertson, Planning Director, asked the Board to consider the potential abandonment of a section of State Secondary Route 736 that was an approximate 0.14 mile section of road or bridge over the Rapidan River. He said the bridge had been closed for approximately 11 years and VDOT asked the County to initiate this process because they had no intention of reopening it. He stated he had talked to the property owners on both sides of the road, and they had no objections to the abandonment. He said those owners would probably end up owning the land since this was a prescriptive easement. He added that in order to abandon the road and have it become effective, Orange County would have to go through these same procedures, which he believed were underway. He recommended that the Board approve the order to abandon this section of the road after the public hearing was held.

Mr. Coates noted that this portion of the road that approached the bridge had been washed out during a flood and Culpeper County was interested in having the bridge

replaced by the Federal Government at no cost to the County, but Orange County did not agree to the replacement of the bridge.

Mr. Coates opened the public hearing and called for public comments.

There were none, and Mr. Coates closed the public hearing.

Mr. Chase moved, seconded by Mr. Aylor, to approve the order to abandon the section of road.

Mr. Coates called for vote by a show of hands.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker

Motion carried 7 to 0.

UNFINISHED PLANNING COMMISSION BUSINESS

CASE NO. Z-414-06-1. Request by Khurram Rashid to rezone 8.387 acres from R-1 (Residential) and C-2 (Commercial) to CS (Commercial Services). The Comprehensive Plan designates this area for Commercial use, but does not specify proposed density. The property is located on Route 3, Route 522 and Route 658 in the Stevensburg Magisterial District. Tax Map/Parcel Nos. 51/87, 87B1.

Mr. Sam McLearen, Zoning Administration, stated that a copy of a letter had been provided to each Board member in which the applicant has requested another 30 days' postponement of the case.

Mr. Egertson recommended that the Board honor the request submitted by the applicant's attorney on the applicant's behalf.

Mr. Chase moved, seconded by Mr. Aylor, to postpone the case for 30 days as requested by the applicant.

Mr. Coates called for a show of hands.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker

Motion carried 7 to 0.

NEW PLANNING COMMISSION BUSINESS

CASE NO. Z-417-06-1. Request by Dunn Brothers, Inc., to rezone 41.99 acres from M-1 (Light Industrial) to R-1 (Residential). The Comprehensive Plan designates this area as rural and suggests a density of one unit per three acres. The property is located on Routes 603 and 29 in the Cedar Mountain Magisterial District. Tax Map/Parcel Nos. 48/89, 89H, 89L.

Mr. McLearen informed the Board that the Planning Commission had considered the case and a public hearing was held. The Planning Commission found this application to be in compliance with the County Comprehensive Plan with the acceptance of the proffers. The proffers should include the buffering of all adjacent industrial properties as agreed by the applicant. He said the Planning Commission was recommending to the Board of Supervisors that the rezoning be approved with the acceptance of the proffers.

Mr. Egertson displayed a copy of the tax map that highlighted the location of the property that was surrounded by M-1 (Light Industrial), R-1 (Residential) and RA (Rural Area). He said the applicant had applied for rezoning to R-1 (Residential) on three parcels, two of which were small parcels fronting on Route 603 that already had permits for single-family homes. He indicated that the applicant had asked that the two small parcels be included in the rezoning to R-1. He stated that the larger tract was proposed for a 15-lot subdivision that could be permitted if the property were rezoned.

Mr. Egertson stated the Board had taken action in November and earlier in this meeting to eliminate residential uses from the M-1 zone, but staff felt that the Comprehensive Plan supported this zoning change because the residential category was more appropriate than the industrial, based on the Comprehensive Plan designation of rural and based upon the residential nature of uses around it, although there were some industrial uses adjacent. He said the applicant had made several proffers, including that development would be limited to 15 lots, plus the two existing lots; and the billboards currently on the property would be removed within 12 months of issuance of building permits. He said also an amended proffer had been made in response to the Planning Commission's comment to ensure all industrial areas would be buffered by the applicant through the addition of landscaping or the retention of existing vegetation. He stated that the applicant had proffered there would be no subdivision access or driveway accesses on Route 29, and all of the lots would be served from an interior road off Route 603. He stated that staff was recommending that the rezoning be approved because it was a more appropriate zoning than the current zoning and it was in compliance with the Comprehensive Plan.

Mr. Kenton Dunn, representing Dunn Brothers, stated he would be pleased to answer any questions.

Mr. Coates opened the public hearing and called for public comments.

Mr. Roger Mitchell, Jr., Cedar Mountain District, spoke in opposition to the rezoning. He indicated that the property being requested for rezoning was surrounded by Light Industrial. He pointed out that Mr. Dunn was a current member of the Town Planning Commission, and had recently expressed the importance of preserving valuable industrial properties and that was in conflict with his request for rezoning his property. He stated that Mr. Dunn should be limited by the same restrictions placed on other property owners.

Mr. Russell Brown, Cedar Mountain District, expressed his opposition to the request for rezoning. He said he was the person Mr. Dunn addressed when the Town changed the rights and privileges on a piece of property he purchased from the Town. He stated that Mr. Dunn had stated that industrial property had to be preserved. He also discussed the existing traffic problems in the area and more houses were not needed.

Mr. Carl Kincheloe, Salem District, spoke in favor of the application and asked the Board to approve the rezoning. He said many of the neighbors, including the church on Route 603, would like for this area to be residential, instead of commercial and industrial.

With no further comments, Mr. Coates closed the public hearing.

Mr. Aylor moved, seconded by Mrs. Hansohn, to approve the application for rezoning with the acceptance of the proffers and as recommended by the Planning Commission.

Mr. Rosenberger asked why the request was for R-1 instead of Rural Residential, which would have met the density to be attained in the Comprehensive Plan. Mr. Egertson replied that the Comprehensive Plan designated the area for rural development and ideally the Rural Residential zone would fit that designation best, but Mr. Dunn had applied for R-1 in order to accommodate his planned subdivision that had less than three acres per lot. He felt that while R-1 was not the perfect zoning, it was superior to the current M-1 in terms of the character of the area and was more compliant with the Comprehensive Plan.

Mr. Aylor stated he felt the property was too far out in the County for industrial development. He said the applicant had gone through the proper channels, the property was surrounded by residential, and there were always exceptions to the rules.

Mr. Nixon asked whether the applicant would be allowed to return at a later date and request additional housing or additional lots. Mr. Egertson replied that the applicant could not seek a re-subdivision, but he could return and seek to amend the proffer through the same public hearing process.

Mr. Nixon asked whether the property would support additional residences. Mr. Egertson replied that he did not believe the property could support any more lots than what was being proposed because each lot would have a drainfield and well and had to be over two acres in size.

Mr. Nixon asked whether most of the surrounding property was residential. Mr. Egertson replied that the predominate use in the area was residential, although there were some industrial uses as well.

Mr. Coates called for vote by show of hands.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker

Motion carried 7 to 0.

CASE NO. U-915-06-3. Request by Raymond Bender for approval to amend an existing use permit for an assisted living/retirement facility to allow three (3) additional duplexes. The facility is currently limited to a 25-bed facility plus two duplexes. The property is located on Route 684 in the Stevensburg Magisterial District and contains 24.32 acres. Tax Map/Parcel No. 42/65A.

Mr. McLearen informed the Board that the Planning Commission had considered the case and a public hearing was held. The Planning Commission found this use permit application to be consistent with Article 17 of the Zoning Ordinance with the following existing conditions: (1) The facility shall be limited to residents in the 25-bed facility, five duplexes and one home for the shepherd overseer; and (2) there shall be no further subdivision of the property. He said the Planning Commission was recommending to the Board of Supervisors that the use permit be approved with the conditions.

Mr. Egertson displayed a copy of the tax map that highlighted the location of the property. He explained Our Father's House Christian Home was an existing use with a 25-bed facility, a caretaker's home, and up to two duplexes, one of which had been constructed. He said that the applicant was applying for an expansion of that facility to allow for three additional duplexes, for a total of five duplexes on that property. He stated that the Health Department had indicated the site could accommodate the expansion, VDOT had approved the expansion with no proposed improvements to the entrance, and it was being recommended for approval with the conditions set by the Planning Commission.

Mr. Raymond Bender, applicant, stated his request was to build three more duplex cottages to accommodate the elderly who were still independent. He said the cottages

would be next to the main assisted living facility and would allow the occupants to participate in various activities and mealtimes. He noted that he planned to build some walkways and landscaping, so the elderly would be able to enjoy the view of the countryside and mountains. He thanked the Board for their consideration of the application.

Mr. Nixon stated that the last time the applicant had applied for a use permit to expand the facility, he said he had no intention of expanding beyond the 25-bed facility. He asked Mr. Bender to provide an explanation.

Mr. Bender explained that his previous statement was with reference to the assisted living facility only because he wanted the facility and the ministry to remain small and not become an institution. He said the State prohibited him from providing any type of nursing or medical care in the cottages, and he had no intention of expanding the facility where care was being provided.

Mr. Nixon said in view of Mr. Bender's statement, the condition should state that there were no further plans for subdivision of the property. Mr. Bender agreed.

Mr. Egertson explained that the purpose of that condition was that the entire facility, including the 25-bed nursing care facility, the associated retirement cottages, and the caretaker's home, would be on the 24-acre parcel and lots would not be partitioned off and sold for single-family dwellings. He said that "no further subdivision" did not mean the applicant could not request additional duplexes, but that he could not subdivide when he built the additional duplexes because they were all part of the overall retirement nursing home permit.

Mr. Chase pointed out that subdivisions were different from erecting buildings on a parcel of property. He said he could think of no bigger asset to the community than Mr. Bender's facility. He commended Mr. Bender for the tremendous job he was doing.

Mr. Coates opened the public hearing and called for public comments.

There were none, and Mr. Coates closed the public hearing.

Mr. Chase moved, seconded by Mr. Aylor, to approve the use permit.

Mr. Coates stated he had experienced first-hand the wonderful care Mr. Bender and his family had provided to his loved one, who was a resident of the facility.

Mr. Coates called for vote by show of hands.

Ayes - Aylor, Chase, Coates, Hansohn, Nixon, Rosenberger, Walker

Motion carried 7 to 0.

ADJOURNMENT

Mrs. Hansohn moved to adjourn at 8:55 p.m.

Peggy S. Crane, CMC
Deputy Clerk

John F. Coates, Chairman

ATTEST:

Frank T. Bossio,
Clerk to the Board

APPROVED: April 3, 2007